

EFFECTIVENESS OF THE CONSIGNMENT MECHANISM IN REALIZED LEGAL CERTAINTY IN LAND ACQUISITION FOR PUBLIC INTERESTS

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Abstract

This study aims to analyze the application of the consignment mechanism in land acquisition for public interest in the construction of the Balairaja Toll Gate, Bengkalis Regency, based on the principles of legal certainty and protection of land rights, and to reconstruct a more ideal consignment mechanism. The study used sociological legal methods. The results indicate that the concession provides legal certainty for the government in continuing development when compensation is refused or land rights are disputed. However, its implementation still faces various obstacles, such as suboptimal deliberation, lack of transparency in compensation assessments, limited community participation, and the tendency to use consignment as an instrument for accelerating development. This situation has resulted in a balance between legal certainty, justice, and the protection of community rights that has not been fully realized. Therefore, reconstruction of the consignment mechanism is necessary by strengthening the deliberation function, increasing transparency and accountability in assessments, providing opportunities for comparative assessments (second appraisals), placing consignment as a last resort (ultimum remedium), strengthening oversight by the District Court, and improving the provisions in Law Number 2 of 2012 and its implementing. This reconstruction is expected to achieve a balance between national development interests and the protection of community constitutional rights in accordance with the principles of a democratic state based on the rule of law.

Keywords: Effectiveness, Consignment, Land Acquisition

INTRODUCTION

National development is a constitutional mandate that aims to create a just, prosperous and prosperous Indonesian society as mandated in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia.(Harsono, 2018). One of the important instruments in accelerating national development is the provision of adequate infrastructure. Road infrastructure, including toll roads, has a strategic function in improving interregional connectivity, facilitating the distribution of goods and services, increasing economic growth, and encouraging equitable national development. Therefore, the government has positioned toll road construction as one of the National Strategic Projects (PSN), the implementation of which requires support for the provision of land quickly and effectively, and providing legal certainty for all stakeholders.

Land rights are essentially part of human rights that receive constitutional protection. Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to own private property and that property rights may not be taken arbitrarily by anyone. In addition, Article 33 paragraph (3) of the 1945 Constitution emphasizes that the land, water and natural resources contained therein are controlled by the state and used to the greatest extent possible for the prosperity of the people. This provision is the philosophical basis that the state has the authority to regulate the use of land for the public interest as long as it is carried out in accordance with the law and continues to provide protection for the rights of the community.

The provisions regarding the state's right to control are then outlined in Articles 2 and 18 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). Article 18 of the UUPA stipulates that in the public interest, including the interests of the nation and state and the common interests of the people, land rights may be revoked by providing appropriate compensation in a manner regulated by law (Sumardjono, 2019). This provision indicates that public interest can be a reason for land acquisition, but its implementation must still adhere to the principles of justice, respect for the rights of landowners, and provide adequate compensation.

As an implementation of the mandate of the UUPA, the government established Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, which was later amended through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. Land acquisition according to Article 1 number 2 of Law Number 2 of 2012 is the activity of providing land by providing adequate and fair compensation to entitled parties. The law emphasizes that the land acquisition process must be carried out based on the principles of humanity, justice, benefit, legal certainty, openness, agreement, participation, welfare, sustainability, and harmony.

One of the crucial stages in land acquisition is the provision of compensation to the entitled parties. Article 40 of Law Number 2 of 2012 stipulates that the provision of compensation results in the termination of land rights, and proof of ownership becomes invalid after payment. However, in practice, not all landowners are willing to accept the form or amount of compensation stipulated. Differences in perceptions regarding the value of compensation, land ownership status, inheritance disputes, and objections to the appraisal process often cause delays in the development of national strategic projects.

To overcome these obstacles, lawmakers introduced a consignment mechanism, or the deposit of compensation in court. Article 42 of Law Number 2 of 2012 stipulates that if the entitled party rejects the form and/or amount of compensation based on the results of deliberation, its whereabouts are unknown, the land object is in dispute, is being confiscated, or is the subject of a court case, then the compensation is deposited with the District Court. This provision is clarified in Government Regulation Number 19 of 2021 concerning the

Implementation of Land Acquisition for Development in the Public Interest, which provides a technical basis for the procedure for depositing compensation so that development can continue even if an agreement has not been reached with the landowner.

The consignment mechanism is intended as an instrument to provide legal certainty for the government while guaranteeing the public's right to compensation. However, the effectiveness of consignment in practice remains a matter of debate. On the one hand, the government views consignment as a solution to accelerate development so that public interest projects are not hampered (Soekanto, 2019). On the other hand, some communities believe that consignment reduces the bargaining power of landowners because construction continues even though an agreement on compensation has not been reached. This situation raises questions about the extent to which the consignment mechanism is truly capable of achieving legal certainty while fulfilling the principle of justice for the community.

The case description of the consignment mechanism in the land acquisition of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency, that the case of land acquisition for the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency is one concrete example that shows the complexity of the implementation of the consignment mechanism in land acquisition for public interest. The dispute is not only related to the amount of compensation, but also concerns the legal status of the land object, ownership of land rights, and legal certainty regarding the party entitled to receive the compensation money that has been deposited in the District Court.

The problem began when the Government, through the Ministry of Public Works and Public Housing, carried out the construction of the Pekanbaru–Kandis–Dumai Toll Road as part of the National Strategic Project (PSN). In the implementation of the project, land acquisition was carried out on community land in the Balai Raja Village area, Pinggir District, Bengkalis Regency. Based on the results of the inventory and identification carried out by the Land Acquisition Committee together with the National Land Agency (BPN), some of the land plots located at the construction site were declared as State Property (BMN) under the control of SKK Migas. Therefore, the government could not directly pay compensation for the land to the community even though the community had a Compensation Certificate (SKGR), a Land Certificate (SKT), and some even had a Land Ownership Certificate (SHM).

Although the land ownership status remains the object of dispute, the government still conducted an assessment of the compensation value and provided compensation funds amounting to approximately Rp21.17 billion, which were then deposited through a consignment mechanism at the Bengkalis District Court. The deposit was carried out for 58 consignment determinations as a form of implementation of Article 42 of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. Thus, normatively, the government has fulfilled its obligation to provide compensation, but its disbursement depends on certainty regarding the party legally declared as the rightful land owner.

On the other hand, a community group led by Samianto continues to claim that they are the rightful owners of the land used for the construction of the Balairaja Toll Gate. This claim is based on their ownership of various land documents, such as the SKGR (Land Use Plan), SKGT (Land Use Plan), and Certificates of Ownership issued by the local government in the past. According to the community group, they have completed all stages of land acquisition, agreed on compensation, and are awaiting payment of the consignment funds deposited with the Bengkalis District Court. They also argue that SKK Migas is not the land rights holder because it is only a work unit implementing upstream oil and gas business activities, not a legal entity with land ownership rights. Therefore, the community believes that the consignment money should be paid to them as the entitled party.

Land acquisition case for the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency In fact, this not only indicates administrative issues

regarding compensation payments, but also reveals a more complex legal conflict regarding the certainty of land rights in land acquisition for public purposes. The main issue is not merely the amount of compensation, but also who is legally entitled to receive compensation for the land used for the toll road construction. This situation shows that the consignment mechanism in practice is not always an instrument for dispute resolution, and in certain circumstances, it can even be the beginning of new legal disputes regarding land ownership status.

Based on data obtained from Civil Case Document Number 36/Pdt.G/2020/PN Bls, the dispute began when a number of residents who controlled land based on Compensation Certificates (SKGR), Land Certificates (SKT), and some Ownership Certificates filed a lawsuit against the government because compensation payments could not be made. The government argued that the land object that was the location of the toll road construction was State Property (BMN) under the control of SKK Migas so that compensation payments could not be handed over to the community before there was certainty regarding the party legally entitled to the land. The issue then developed into a civil dispute that lasted until the cassation level.

The Bengkalis District Court Decision Number 36/Pdt.G/2020/PN Bls, which was later upheld by the Pekanbaru High Court Decision Number 197/PDT/2021/PT PBR and the Supreme Court Decision Number 1820 K/PDT/2023, rejected the community's lawsuit and declared the plaintiffs' claims inadmissible. Thus, the decision provided legal certainty regarding the status of the disputed land and served as a basis for the government not to disburse consignment funds to the plaintiffs. However, the *inkracht* of the decision apparently did not completely resolve the problem on the ground because some residents still felt they had rights to the land in question and continued to question the fairness of the consignment mechanism implemented by the government.

These facts demonstrate that normative legal certainty is not always synonymous with achieving a sense of justice within the community. From a land acquisition legal perspective, the state has indeed implemented all procedures as stipulated in Law Number 2 of 2012 and its implementing regulations, starting from inventory, identification, compensation assessment by an independent appraiser, deliberations on compensation determination, to the deposit of compensation money through a consignment mechanism at the District Court. However, from the perspective of the community who feel they own the land, this procedural resolution has not been able to provide certainty regarding the protection of their civil rights. This condition demonstrates the gap between formal legal certainty and substantive legal certainty.

This issue is increasingly interesting to study because, based on information from the land acquisition implementing agency, the compensation funds deposited through the consignment mechanism reached approximately Rp21.17 billion and were related to 58 consignment determinations. This figure indicates that the disputes that occurred were not individual issues, but had significant legal, economic, and social impacts on the community and the smooth development of National Strategic Projects. Thus, research on the effectiveness of the consignment mechanism is not only important for the development of agrarian law, but also has practical relevance for the government in refining future land acquisition policies.

In addition to the facts derived from court decisions, the issue of land acquisition for the Balairaja Toll Gate construction has also received attention from various government agencies. The National Land Agency, the Ministry of Public Works and Public Housing, and local governments have, in principle, continued to proceed with the toll road construction, based on the provisions regarding land acquisition for the public interest. Conversely, some members of the public continue to seek recognition of civil rights they believe they held long

before the toll road was built. These differing perspectives between the government and the public indicate that the implementation of the consignment mechanism has not completely eliminated the legal conflicts arising from land acquisition.

Upon further analysis, at least three key legal issues arise in the Balairaja Toll Gate case. First, there is the issue of the effectiveness of the consignment mechanism as an instrument for providing legal certainty regarding compensation payments. Second, there is the issue of legal protection for parties who control land based on land administration documents but are later declared not entitled to receive compensation by a court decision. Third, there is the issue of balancing the public interest in the development of National Strategic Projects with the protection of the civil rights of the community as guaranteed by the 1945 Constitution of the Republic of Indonesia.

These three issues demonstrate that the legal issues addressed in this study extend beyond the normative aspect of the applicability of Article 42 of Law Number 2 of 2012, but also to the effectiveness of the implementation of this norm in resolving real legal conflicts in the field. Therefore, this study not only examines whether the consignment procedure has been implemented in accordance with statutory provisions, but also assesses the extent to which this mechanism is capable of providing legal certainty for all parties involved in land acquisition.

On the other hand, the results of a search of various previous studies indicate that studies on the consignment mechanism in land acquisition generally still focus on normative aspects, such as procedures for depositing compensation, legal protection for land owners, and analysis of the provisions of Law Number 2 of 2012. Some other studies discuss the resolution of land acquisition disputes through administrative law or civil law approaches without specifically linking them to the effectiveness of implementing the consignment mechanism in national strategic projects involving land ownership disputes between the community and the state. Not many studies have comprehensively examined how the consignment mechanism is applied when the land object that is the location of the development is also claimed as State Property, resulting in a conflict regarding the party entitled to receive compensation. Even fewer studies have considered the case of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency as a research object, even though the case has different characteristics compared to land acquisition disputes in general because it involves a litigation process up to the Supreme Court, the implementation of consignments in quite large amounts, and there is a conflict between community ownership claims and state control over assets used for national strategic interests.

The novelty of this research lies in the analysis of the effectiveness of the consignment mechanism in realizing legal certainty through a case study of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency by integrating three perspectives simultaneously: the legal perspective of land acquisition, the perspective of legal effectiveness, and the perspective of implementing court decisions in resolving land rights disputes. This research not only tests the compliance of consignment implementation with normative provisions, but also analyzes the extent to which this mechanism is truly capable of resolving legal conflicts, providing legal certainty to the parties, and supporting development implementation in the public interest.

Consignment is a legal instrument used when the entitled party rejects the form or amount of compensation, their whereabouts are unknown, or certain circumstances as stipulated in laws and regulations exist. By depositing compensation money in court, the land acquisition process can continue for the public interest. However, in the practice of constructing the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the implementation of this mechanism does not always resolve legal issues. Some residents still raise objections to the compensation amount, question the validity of the determination of

the entitled party, or feel they have not received adequate legal protection for their ownership rights. This condition indicates that administrative resolution through consignment does not necessarily align with achieving a sense of justice and legal certainty for all parties.

This issue is interesting to study because, normatively, consignment is intended as a solution to dispute resolution so that development in the public interest is not hampered. However, empirically, various follow-up disputes still arise after the consignment is implemented, including lawsuits in court, community objections to the amount of compensation, and conflicts regarding land status and ownership. These facts indicate a discrepancy between the intended legal objectives and the reality of its implementation. Therefore, this study not only examines whether the consignment mechanism has been implemented according to procedure, but also analyzes whether its implementation is truly able to achieve legal certainty, provide protection for land rights, and fulfill the principle of justice in land acquisition for the public interest.

These issues were also evident in the construction of the Balairaja Toll Gate in Bengkalis Regency. The toll gate construction is part of the development of the toll road network in Riau Province, which aims to improve accessibility to industrial areas, accelerate community mobility, and support regional economic growth. In its implementation, the land acquisition process faced various obstacles, including landowners who were unwilling to accept the compensation value resulting from the appraisal, land ownership disputes, incomplete ownership documents, and community objections to the deliberation process for determining compensation. Consequently, the government adopted a consignment mechanism through the District Court to avoid delays in construction.

Although administratively the consignment mechanism has been implemented according to procedure, its effectiveness in providing legal certainty still needs to be studied more deeply. This is because several problems are still found, including the persistence of community objections after the compensation is deposited, not all landowners immediately collect the consignment money, the emergence of the perception that the consignment mechanism benefits the government's interests more than protecting the community's rights, and the potential for further disputes regarding ownership and the amount of compensation. These conditions indicate that formal legal certainty is not necessarily in line with substantive legal certainty.

From the perspective of the theory of legal effectiveness, a legal provision is not only assessed from the existence of written norms, but also from the level of public compliance, the ability of officials to implement the rules, the availability of supporting facilities, and the legal culture that develops in society (Rahardjo, 2017). Thus, the success of the consignment mechanism is not only measured by the implementation of the deposit of compensation money in court, but also by the achievement of legal objectives in the form of legal certainty, justice, and benefits for all parties involved.

From a legal philosophy perspective, the effectiveness of the consignment mechanism in land acquisition for public purposes can be analyzed using the *das sollen* and *das sein* approach. This approach demonstrates the extent to which law, as an ideal norm, can be realized in the practice of land acquisition, particularly in the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency. This analysis is important because consignment is essentially a legal instrument designed to guarantee legal certainty without neglecting the protection of the rights of the community whose land is used for public purposes.

Das sollen describes the ideal conditions desired by the legal system. In the context of land acquisition, the consignment mechanism has been comprehensively regulated through Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest and its implementing regulations. Consignment is placed as a last resort (*ultimum remedium*)

if deliberations regarding the form and amount of compensation do not reach an agreement or the entitled party rejects the compensation value, its whereabouts are unknown, the land object is still in dispute, is used as collateral for debt, or is under court confiscation. Through the mechanism of depositing compensation money in the district court, the state considers the payment obligation to have been fulfilled so that the agency requiring the land has a legal basis to continue development. This norm reflects the legal ideal of legal certainty, benefit, and justice in a balanced manner. Legal certainty is realized through the existence of clear procedures; benefit is realized through the acceleration of infrastructure development; while justice is realized through the guarantee that community rights can still be taken at any time through the mechanism of collecting consignment money in court.

Normatively, consignment is also intended to prevent the disruption of national strategic projects due to the resistance of a small number of land rights holders. The state is obliged to fulfill the public interest through the construction of toll roads, ports, dams, hospitals, and other public facilities, so that the law strikes a balance between protecting individual rights and the interests of the wider community. Thus, *das sollen* positions consignment as an instrument capable of eliminating uncertainty regarding land ownership status without eliminating the community's civil rights to compensation.

However, *das sein* reveals a more complex reality. In the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the consignment mechanism successfully provided the government with a legal basis to continue the construction process without having to wait for all landowners to reach an agreement. From a state administration perspective, construction did not experience prolonged stagnation, allowing the project's completion target to be met. In this aspect, consignment proved effective as an instrument of legal certainty for both the government and toll road companies because the land status was transferred after the compensation money was deposited in court.

However, the impacted communities have not yet fully experienced this effectiveness. In practice, some landowners still view consignment as a form of state coercion, as deliberations on compensation amounts have not yet resulted in a substantive agreement. Many residents feel that the appraisal value does not reflect the market price or economic value of their land. Consequently, consignment, which is normatively intended as a solution, is perceived as the end of negotiation. This perception demonstrates that formal legal certainty is not necessarily synonymous with a sense of social justice.

Based on the description, there is a gap between *das sollen*, namely the legal provisions that require the consignment mechanism as an instrument for settling land acquisition that is fair and provides legal certainty, and *das sein*, namely the practice in the field that still shows community rejection, land ownership disputes, objections to the compensation value, and the less than optimal community acceptance of the consignment mechanism. This gap is an important reason to conduct research on the effectiveness of the consignment mechanism in land acquisition for the public interest.

RESEARCH METHODS

This study uses socio-legal research by examining the gap between *das sollen* and *das sein* related to the application of the consignment mechanism in land acquisition for public interest in the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency. The approach used includes a statutory approach through an analysis of the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960, Law Number 2 of 2012, and Government Regulation Number 19 of 2021, as well as a conceptual approach using relevant legal doctrines and theories.

The research was conducted in Bengkalis Regency considering that problems are still found in the implementation of the consignment mechanism, particularly related to legal

certainty and protection of community land rights. The research data consists of primary data, obtained through observation and non-structured interviews with the Head of the Bengkalis Regency Land Office, Members of the Bengkalis Regency DPRD, the Clerk of the Bengkalis District Court, and the community members who are the objects of consignment; secondary data, in the form of laws and regulations, books, journals, and court decisions; and tertiary data obtained from legal dictionaries, encyclopedias, and other supporting sources.

The sampling technique used a census of key informants and purposive sampling of the community that became the object of the consignment so that the number of respondents was 8 people, consisting of 3 key informants and 5 community members. Data collection was carried out through observation, unstructured interviews, and literature studies. All data were analyzed qualitatively through the stages of data reduction, data presentation, and drawing conclusions by comparing legal provisions with empirical facts and analyzed using the theory of the rule of law, the theory of legal certainty, and the theory of dispute resolution. Drawing conclusions was done inductively, namely from specific facts in the field to general conclusions regarding the effectiveness of the consignment mechanism in realizing legal certainty for land acquisition for the public interest.

RESULT AND DISCUSSION

A. The application of the consignment mechanism in land acquisition for public interest in the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency, reviewed from the principle of legal certainty and protection of land rights

Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as amended by Law Number 6 of 2023, provides a legal basis for land acquisition to be carried out based on the principles of humanity, justice, benefit, legal certainty, transparency, agreement, participation, welfare, sustainability, and harmony. One of the mechanisms regulated in the law is consignment, namely the deposit of compensation money with the District Court if certain circumstances prevent payment of compensation directly to the entitled party.

In the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the consignment mechanism is essentially the last legal step (*ultimum remedium*) after deliberations regarding the form and amount of compensation fail to reach an agreement or there are legal obstacles that prevent direct payment. These obstacles can include rejection of the compensation value, land ownership disputes, the land object being used as collateral for debt, the land being seized by the court, or the land owner's whereabouts are unknown. Therefore, consignment is not an instrument to eliminate community rights to land, but rather a legal mechanism that aims to ensure the continuity of development without eliminating the community's right to receive adequate compensation.

According to Boedi Harsono (2008), land rights are a legal relationship between a legal subject and the land, granting the rights holder the authority to use and benefit from the land as long as it does not conflict with the public interest. Therefore, land acquisition by the state for the public interest must always be accompanied by adequate, fair compensation and be based on clear legal procedures to avoid violating the rights of the community.

When linked to the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the implementation of the consignment mechanism must be analyzed based on the original purpose of the Land Acquisition Law, namely to create a balance between national development interests and the protection of individual community rights. In practice, landowners are still found to reject compensation values because they believe the appraisal does not reflect the market price or the true economic value of the land. This rejection then becomes the basis for agencies requiring land to entrust compensation

money to the District Court through the consignment mechanism.

This action is in accordance with Article 42 of Law Number 2 of 2012, which stipulates that if the entitled party rejects the form or amount of compensation, the compensation money can be deposited with the District Court. However, the implementation of this norm should not be understood merely as fulfilling administrative procedures. The state remains obligated to ensure that prior to consignment, a genuine, transparent deliberation has been conducted and that the public has been given an equal opportunity to raise objections to the compensation assessment results.

According to Maria SW Sumardjono (2008), the concept of land acquisition in a state governed by the rule of law should not only focus on successfully acquiring land for development, but also ensure the protection of the community's constitutional rights. Land acquisition must be implemented based on the principle of balanced protection, namely a balance between development interests and the protection of landholders' rights. If this balance is not achieved, development goals have the potential to give rise to social injustice.

In the context of the Pinggir Toll Gate development in Balairaja Village, Pinggir District, Bengkalis Regency, this principle requires the government not to use the consignment mechanism as an instrument to expedite land clearing without first optimizing resolution through deliberation. Consignment should be viewed as a last resort when all amicable settlement mechanisms have been exhausted but have failed to produce an agreement.

The principle of legal certainty is one of the fundamental principles in the implementation of a state based on law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In land acquisition, legal certainty is not only aimed at the government as the implementer of development, but also at the community as the holder of land rights. The construction of the Balairaja Toll Gate, which is part of the Pekanbaru–Kandis–Dumai Toll Road National Strategic Project (PSN), is a concrete example of how the consignment mechanism is applied in land acquisition when a dispute arises regarding the ownership status of the land object. Unlike the consignment mechanism in general, which occurs due to community rejection of the amount of compensation, the case in Balairaja shows that the consignment was carried out because there was a dispute regarding the party most entitled to receive compensation for the land that will be used for the toll road construction.

Based on field data, the land acquisition process began in 2019 when the Ministry of Public Works and Public Housing (PUPR), through the Toll Road Land Acquisition Work Unit for Region II, conducted data collection, inventory, and measurement of land plots located at the Pinggir Toll Exit construction site in Balai Raja Village, Pinggir District, Bengkalis Regency. Subsequently, an assessment was conducted of buildings, plants, and other objects located on the land. A total of 61 plots of land belonging to 56 owners received compensation payments for buildings and plants with a value of approximately Rp15,338,675,510.00. However, no payment was made for the land itself because the government's identification results stated that the object was State Property (BMN) managed by SKK Migas.

This finding then became the beginning of the dispute. The community continues to claim to hold land rights based on various ownership documents, such as Compensation Certificates (SKGR), Land Certificates (SKT), Land Replacement Certificates (SKGT), and some even have Ownership Certificates (SHM). Conversely, the government argues that the land is included in the State-Owned Enterprises (BMN) managed by SKK Migas, so compensation payments for the land cannot be made directly to the community until its legal status is confirmed. In such circumstances, the government chose to use a consignment mechanism as stipulated in Article 42 of Law Number 2 of 2012. Based on the results of the

appraisal, the land compensation value reached approximately Rp21,170,103,648.00, then the funds were deposited (consignatie) at the Bengkalis District Court. However, the money can only be disbursed if the party claiming to be the land owner successfully proves their rights through a court decision that has permanent legal force.

From the government's perspective, this step demonstrates the principle of legal certainty. The state can continue to build the toll road because compensation funds have been secured and deposited with the courts, while the issue of who is entitled to receive the payments is resolved through the courts. This ensures that the construction of the National Strategic Project is not hampered by potentially protracted land ownership disputes.

However, upon closer analysis, the facts on the ground actually show that the implementation of consignment does not fully reflect the protection of community rights. This is evident in the 43 landowners who sued SKK Migas in the Bengkalis District Court. The lawsuit was rejected by the Bengkalis District Court through Decision Number 36/Pdt.G/2020/PN Bls, then upheld by the Pekanbaru High Court through Decision Number 197/PDT/2021/PT PBR, and the Supreme Court subsequently rejected the plaintiffs' cassation request through Decision Number 1820/K/PDT/2023.

As a result of this ruling, the community cannot withdraw the consignment money deposited with the Bengkalis District Court because they were legally declared not to have the right to the land according to the court ruling. This situation shows that although the state has fulfilled its administrative obligation by depositing compensation money, the main purpose of the consignment, which is to protect the community's rights, has not been fully achieved. The community cannot use the money deposited because the legal status of land ownership was ruled against them.

The issue becomes even more complex when it emerges that some residents claim they never objected to the amount of compensation. The issue isn't the amount of the payment, but rather who is deemed entitled to receive the consignment money. Even the legal representatives for the 42 landowners stated that the residents had submitted a letter of introduction to the National Land Agency (BPN) for compensation payments and had opened a special account in preparation for receiving the consignment payments. They also stated that they had never objected to the agreed-upon compensation amount from the outset.

On the other hand, intelligence documents from the Bengkalis Police also indicate that the dispute has implications for security stability. The Bengkalis District Court issued 58 execution orders for 61 plots of land still controlled by 56 defendants, necessitating intensive coordination between the Bengkalis District Court, the Bengkalis Police, the regional government, and land acquisition implementing agencies prior to land clearing.

There are even concerns that the conflict will be exploited by certain parties ahead of the 2024 regional elections, potentially increasing public resistance to the implementation of the law. Therefore, legal certainty in land acquisition is not only related to certainty regarding land rights, but also to ensuring social order and sustainable development.

The concept of a state based on the rule of law (*rechtsstaat*) is the primary basis for assessing the validity of the application of the consignment mechanism in land acquisition for the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency. A state based on the rule of law not only requires that all government actions must have a legal basis (principle of legality), but also requires that the use of state authority always respect the rights of citizens as legal subjects. In the context of land acquisition, the state is indeed given the authority to acquire land for the public interest, but this authority is limited by the principles of legality, proportionality, justice, protection of property rights, and oversight mechanisms through judicial institutions.

The Indonesian Constitution, in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, affirms that Indonesia is a state based on law. Consequently, every

government action, including land acquisition for toll road construction, must be carried out based on statutory provisions and cannot be solely based on considerations of development effectiveness. According to Jimly Asshiddiqie (2010), the concept of the Indonesian state based on law not only contains elements of the rule of law, but also integrates the protection of human rights, limitations on power, the principle of legality, due process of law, and the existence of an effective judicial mechanism as an instrument of control over government actions.

In the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the government based the implementation of land acquisition on Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as amended by Law Number 6 of 2023, Government Regulation Number 19 of 2021, and Supreme Court Regulation Number 3 of 2016. Normatively, this series of regulations provides legitimacy to the state to conduct land acquisition as long as it is carried out based on the principles of humanity, justice, benefit, legal certainty, openness, agreement, participation, welfare, sustainability, and harmony. However, when analyzed based on the theory of the rule of law, the issue that arises is not simply whether the government has a legal basis for conducting consignment, but whether the use of this authority has been implemented proportionally and continues to provide protection for the rights of the community as holders of land rights.

The facts in the Balairaja Toll Gate case show that the government has conducted an inventory of land plots affected by the development, carried out compensation assessments through independent appraisers, and held discussions with the community. For buildings and plants on the land, compensation payments have been made to 56 owners of 61 plots of land with a value of approximately Rp15.3 billion. While for the land itself, the government did not make direct payments because there was a claim that the land object was State Property (BMN) under the management of SKK Migas. Compensation funds for the land amounting to approximately Rp21.17 billion were then deposited through a consignment mechanism at the Bengkalis District Court until a final and binding decision is issued regarding the party entitled to receive payment.

According to Philipus M. Hadjon (1987), the essence of a state based on the rule of law is to provide legal protection to citizens against government actions. This protection is realized in two forms: preventive legal protection, which provides the public with the opportunity to raise objections before government decisions are implemented, and repressive legal protection through dispute resolution mechanisms in judicial institutions. Therefore, the success of consignment implementation is not only measured by the fulfillment of administrative procedures, but must also be assessed by the extent to which the public has an effective opportunity to defend its rights.

In the Balairaja Toll Gate case, preventative legal protection was provided through public consultation, inventory, identification of land acquisition subjects and objects, and deliberation regarding the form and amount of compensation. However, problems arose when land ownership disputes prevented the community from receiving direct payments, even though the majority claimed not to object to the amount of compensation. This fact indicates that the deliberation mechanism was not fully capable of resolving conflicts regarding land rights status before the consignment mechanism was implemented.

The rule of law perspective requires that any restrictions on property rights be implemented proportionally (the principle of proportionality). According to Maria SW Sumardjono (2015), land acquisition is a form of restriction on individual rights for the public interest, which can only be justified if it is carried out based on law, accompanied by the provision of adequate compensation, and still respects the dignity of land rights holders. Therefore, the state should not view consignment as an instrument to accelerate development

alone, but rather as a protection mechanism that ensures that community rights can be maintained through the judicial process.

However, when analyzed substantively, there remains the issue of balancing the public interest with the protection of individual rights. Court decisions do provide certainty regarding who has land rights, but from a social justice perspective, questions arise regarding the protection of communities who have controlled and utilized the land for decades based on local administrative documents such as Compensation Certificates (SKGR), Land Certificates (SKT), and Land Replacement Certificates (SKGT). From the perspective of a modern rule of law, resolving such disputes cannot simply rely on the formal legality of ownership but must also consider aspects of substantive justice.

This approach aligns with Satjipto Rahardjo's (2005) argument that law should not be limited to regulatory texts, but rather should be able to provide protection for humans as the primary objective of law. According to him, good law is not only law that guarantees procedural certainty, but also law that is able to realize justice in the lives of the people. In the context of the Balairaja Toll Gate case, this approach requires the government not only to focus on successfully acquiring land for toll road construction, but also to ensure that the community receives real legal protection, both through the provision of transparent information, access to objection mechanisms, and legal assistance during the dispute resolution process.

Based on the theory of the rule of law, it can be concluded that the implementation of the consignment mechanism in the construction of the Balairaja Toll Gate has formally fulfilled the principle of legality because it was implemented based on Law Number 2 of 2012 and its implementing regulations. However, from the perspective of the rule of law in the material sense, this implementation still requires strengthening, especially in the aspect of protecting community rights. A rule of law not only demands a basis for authority, but also requires a balance between the use of state authority to realize the public interest and the state's obligation to protect citizens' constitutional rights to land ownership. Therefore, the consignment mechanism should be positioned as a legal protection instrument that ensures community rights remain protected during the development process, not merely as an administrative tool to expedite land acquisition.

The implementation of the consignment mechanism in the construction of the Balairaja Toll Gate is normatively in accordance with the provisions of Law Number 2 of 2012 because the government has entrusted compensation to the District Court before continuing construction. However, substantively, the goal of protecting community rights has not been fully realized. This is due to disputes regarding land ownership status that result in the consignment money not being immediately received by the party claiming to be the land owner. Thus, the Balairaja Toll Gate case shows that the consignment mechanism is able to provide certainty for the continuation of development, but is not necessarily able to provide certainty for the community in obtaining compensation if the land ownership dispute has not yet been resolved with permanent legal force. This shows that the success of the consignment mechanism is not only determined by fulfilling the procedures for depositing money to the court, but also depends heavily on the resolution of land rights disputes quickly, fairly, and providing legal certainty for all interested parties.

According to Gustav Radbruch (2013), legal certainty is a prerequisite for the law to function as a guide for societal behavior. Without legal certainty, the public cannot know for certain their rights and obligations, thus the objectives of the law are not achieved. When analyzed regarding the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the consignment mechanism actually provides legal certainty for the government because after the compensation money is deposited with the District Court, the agency requiring the land can continue the construction process without having to wait for

a protracted dispute resolution. From a government administration perspective, this mechanism provides certainty regarding the status of land ownership so that development does not experience prolonged obstacles.

However, this legal certainty must also be felt by the community. Landowners must receive certainty regarding the amount of compensation, the procedure for filing objections, the mechanism for disbursing consignment funds, and a guarantee that their ownership rights will not be lost without adequate compensation. Therefore, legal certainty in the consignment mechanism not only means certainty for the state to develop, but also for the community to receive certainty regarding the protection of their rights.

According to Jimly Asshiddiqie (2021), legal certainty in a modern constitutional state must be realized through three aspects: certainty regarding legal norms, certainty regarding legal procedures, and certainty regarding the protection of citizens' rights. These three aspects must operate in balance so that development does not sacrifice the rights of the people.

Land rights are part of property rights that receive constitutional protection. Therefore, any land acquisition by the state must be conducted based on legal procedures and accompanied by the provision of fair compensation. According to Urip Santoso (2017), legal protection for land rights does not stop at granting land title certificates, but also includes protection when those rights are restricted or taken for the public interest. The state is obliged to ensure that rights holders receive adequate compensation so that they do not suffer economic or social losses due to the release of their land.

In the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, the implementation of consignment must be ensured not to eliminate the community's right to obtain justice. Although the compensation money has been deposited with the District Court, the community still has the right to file an objection to the amount of compensation through the legal mechanism specified in Law Number 2 of 2012. Thus, consignment is not a form of land rights seizure, but rather a legal protection mechanism that still provides space for the community to fight for their rights through the judicial process.

According to Adrian Sutedi (2020), the success of land acquisition is not measured by the speed of land acquisition, but rather by the extent to which the process provides a sense of justice to the people who relinquish their land rights. Therefore, consignment should not be used as a means of pressure to force people to accept compensation, but rather as a legal instrument that maintains a balance between development interests and the protection of citizens' rights.

Based on the author's observations, the application of the consignment mechanism in land acquisition for public interest in the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency, reviewed from the principle of legal certainty and protection of land rights, is a statutory provision that provides legal certainty for the continuity of strategic infrastructure development. Depositing compensation to the District Court is a legal instrument to resolve the deadlock in deliberation without hindering development. However, from the aspect of land rights protection, several problems are still found, including differences in perception regarding the fairness of the compensation value, less than optimal socialization regarding the consignment mechanism, and the continued presence of people who feel that the deliberation process does not fully reflect the principle of justice. Therefore, the effectiveness of consignment is not only measured by the implementation of development, but also by the extent to which the mechanism is able to guarantee the fulfillment of community rights through a transparent, participatory, and fair process so that legal certainty and protection of land rights can be realized in a balanced manner.

The application of the consignment mechanism in land acquisition for the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency is

essentially a form of dispute resolution that has been specifically regulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as amended by Law Number 6 of 2023. Consignment is not intended as an instrument of punishment for people who refuse compensation, but rather as a legal mechanism to ensure that development can continue without eliminating the community's right to obtain legal protection through the judiciary. Therefore, the consignment mechanism must be analyzed from the perspective of dispute resolution theory, namely how the law provides a conflict resolution mechanism that is able to provide justice for all interested parties.

According to Nurnaningsih Amriani (2016), a legal dispute is a conflict of interest between two or more parties, each of whom feels they have rights to a legal object, thus requiring a resolution mechanism that provides legal certainty and justice. Dispute resolution can be carried out through non-litigation or litigation channels, depending on the characteristics of the conflict that occurs. In the Balairaja Toll Gate case, the dispute did not begin with a rejection of the amount of compensation, but rather stemmed from differences in claims regarding land ownership status between the community and the government, which stated that the object was State Property managed by SKK Migas. The dispute developed into a legal conflict because each party had a legal basis that was believed to be valid, so it was impossible to resolve it through ordinary deliberation alone.

When analyzed based on dispute resolution theory, the initial stages taken by the government are actually in accordance with the principles of Alternative Dispute Resolution (ADR). The government, through the Land Acquisition Preparation and Implementation Team, first conducts public consultations, an inventory, identification of land acquisition subjects and objects, an assessment of compensation by an independent appraiser, and deliberations to determine the form and amount of compensation. These stages demonstrate that peaceful dispute resolution is prioritized over litigation (Usman, 2014).

However, based on the facts of the case, deliberation failed to resolve the issue because the core of the dispute was not about the compensation value, but rather the legality of land rights. Under these circumstances, Law Number 2 of 2012 provides the government with the opportunity to utilize a consignment mechanism as a form of dispute resolution through the deposit of compensation funds with the District Court. This measure serves the dual purpose of providing certainty regarding development implementation while simultaneously ensuring that the community's right to compensation is not lost during the dispute resolution process.

In modern dispute resolution theory, litigation is the ultimum remedium, used when all peaceful resolution efforts have failed. According to Takdir Rahmadi (2013), resolving a dispute through the courts is the last resort when the parties fail to reach an agreement through negotiation, mediation, or other forms of alternative dispute resolution. Therefore, the success of a dispute resolution is measured not only by the court's decision, but also by the extent to which non-litigation mechanisms are able to reduce conflict before the case is brought to court.

In the Balairaja Toll Gate case, the government argued that the land being acquired was a state-owned enterprise (BMN) under the management of SKK Migas. Conversely, the community claimed rights based on Compensation Certificates (SKGR), Land Certificates (SKT), Land Replacement Certificates (SKGT), and some even had Ownership Certificates. These differences prevented the government from definitively determining the party entitled to receive compensation payments, leading to the adoption of a consignment mechanism at the Bengkalis District Court.

From a dispute resolution theory perspective, the use of consignment in such circumstances constitutes a form of indirect adjudication, as the government does not decide the rightful landowner, but rather leaves the determination to a judicial institution. In this

way, the government maintains the principle of impartiality and avoids arbitrary action in determining who is entitled to compensation.

According to Heryandi's (2019) research in the *RechtsVinding Journal*, the consignment mechanism is a legal instrument designed to prevent development stalling due to land ownership disputes. However, the effectiveness of consignment is highly dependent on the speed of dispute resolution by the courts because until a final and binding decision is made, the community remains in a state of uncertainty regarding their economic rights. This opinion is highly relevant to the Balairaja Toll Gate case because compensation funds have been deposited with the Bengkalis District Court, but the community cannot receive them until a final and binding decision is issued.

The facts of the case indicate that the community subsequently filed a lawsuit against SKK Migas at the Bengkalis District Court. The lawsuit was rejected by Decision Number 36/Pdt.G/2020/PN Bls, subsequently upheld by the Pekanbaru High Court by Decision Number 197/PDT/2021/PT PBR, and finally, the Supreme Court, through Decision Number 1820 K/PDT/2023, also rejected the plaintiffs' appeal.

However, upon closer analysis, the resolution of this dispute still leaves issues from an access to justice perspective. According to research by Siti Hamidah (2021) in the *Judicial Journal*, effective dispute resolution is measured not only by the existence of a court decision, but also by the decision's ability to provide a sense of justice and resolve social conflict sustainably. In the Balairaja Toll Gate case, the court decision did provide certainty regarding the legal status of the land, but the social conflict between the community and the government did not immediately end because the community still felt they had controlled the land for years.

In the context of the Balairaja Toll Gate development, the author argues that the use of consignment is in accordance with the provisions of Law Number 2 of 2012. However, the government should optimize the mediation mechanism before using the litigation route. Mediation involving local governments, ATR/BPN, SKK Migas, community leaders, village officials, and independent parties has the potential to produce a more comprehensive resolution, especially if the dispute is more influenced by differences in perceptions regarding the administrative status of the land rather than conflicts regarding its economic value.

Based on the analysis, it can be concluded that the implementation of the consignment mechanism in the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency, is normatively in accordance with Law Number 2 of 2012 as long as it is carried out after all stages of deliberation are carried out seriously and meet the requirements stipulated by the laws and regulations. From the perspective of the principle of legal certainty, consignment provides certainty regarding the continuity of development as well as certainty regarding the compensation payment mechanism. Meanwhile, from the perspective of land rights protection, consignment can only be justified if it still guarantees the community's right to obtain adequate compensation, the opportunity to file objections, and protection of constitutional rights to land ownership so that the balance between public interests and individual interests is maintained.

B. Reconstruction of the ideal consignment mechanism to be able to provide a balance between the interests of national development and the protection of the rights of the community affected by the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency

National development is a constitutional mandate that aims to realize general welfare as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia. To achieve this goal, the state requires land as a factor of production that plays a strategic role in the development of infrastructure, public service facilities, industrial areas, and national strategic

projects. However, land is not merely an economic object, but has social, cultural, historical, and even psychological dimensions for the people who have owned and utilized it for generations. Therefore, every land acquisition must be able to balance two interests that are both protected by law, namely the interests of national development and the protection of the rights of the community as land rights holders.

One of the instruments used in the land acquisition process is the consignment mechanism as regulated in Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest as amended by Law Number 6 of 2023, and Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest. Consignment is intended as a legal solution if the provision of compensation to the entitled party cannot be implemented directly due to certain circumstances, such as rejection of the amount of compensation, land ownership disputes, the land object is being used as collateral, is being seized by the court, or the land owner's whereabouts are unknown.

Although normatively, this mechanism has provided certainty for the continuity of development, practice in the field shows that consignment is often perceived as an instrument that prioritizes development acceleration over protecting community rights. Many communities believe that once compensation money is deposited with the District Court, the landowner's bargaining position becomes weaker because development can still proceed even if there are still objections to the compensation amount. This condition indicates that the current consignment arrangement is still oriented towards administrative resolution, but does not fully reflect the principle of substantive justice.

According to Gustav Radbruch (2013), law not only pursues legal certainty (*rechtssicherheit*), but must also realize justice (*gerechtigkeit*) and utility (*zweckmäßigkeit*). These three values must operate harmoniously so that the law not only provides procedural certainty but also produces justice that can be felt by the community. In the context of land acquisition, a consignment mechanism that only provides certainty for the continuity of development without guaranteeing justice for land rights holders will result in an imbalance between the interests of the state and the interests of the community.

Therefore, a reconstruction of the consignment mechanism is needed that is not only oriented towards accelerating development but also provides more effective legal protection for community rights. This reconstruction must begin with a paradigm shift, emphasizing that consignment is not an instrument to force communities to accept compensation assessments, but rather a temporary legal mechanism that still guarantees the community's right to complete justice.

The first necessary reconstruction is to strengthen the deliberation mechanism before the consignment is implemented. Deliberation is often understood as fulfilling formal requirements as stipulated in Law Number 2 of 2012. In practice, deliberation only serves as a forum for conveying appraisal results without adequate space for dialogue between the government, independent appraisers, and the community. However, according to Maria SW Sumardjono (2008), deliberation is the core of protecting community rights in land acquisition because it can achieve a balance between development interests and the protection of individual rights. Deliberation must be conducted in an open and participatory manner, and provide the community with the opportunity to obtain complete information regarding the appraisal method, the basis for calculating compensation, and the factors influencing the amount of compensation.

The main problem that often causes consignment is public dissatisfaction with appraisal results. Many people believe that appraisals are based solely on the Taxable Object Sales Value (NJOP) or other administrative values, thus not reflecting the true market value. According to Adrian Sutedi (2020), the success of land acquisition is largely determined by the independence of the appraiser, as the results form the primary basis for determining the amount of compensation. Therefore, appraisers must be truly independent, professional, transparent, and able to account for their assessment methods both scientifically and legally.

The necessary reforms include requiring appraisers to submit their appraisal reports openly to the appropriate parties. Furthermore, the public should be given the right to request clarification or a second opinion appraisal if there are significant discrepancies with the established value. This mechanism will increase transparency and minimize the potential for disputes that could lead to consignment.

Based on the author's observation, the ideal reconstruction of the consignment mechanism to be able to provide a balance between the interests of national development and the protection of the rights of the community affected by the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency is by placing consignment as a legal instrument that is truly used as a final step after all stages of deliberation and mediation are carried out optimally. This reconstruction needs to be supported by transparency in the assessment of compensation, increased community participation from the planning stage, simplification of consignment administration procedures in court, providing access to legal assistance to the community, and strengthening coordination between agencies involved in land acquisition. Thus, legal certainty for the implementation of national development is still realized, but at the same time protection of land rights, a sense of justice, and the interests of the affected community can also be realized proportionally in accordance with the principles of the rule of law and social justice.

Consignment has tended to be positioned as an administrative procedure that can be implemented immediately after a refusal to pay compensation. This approach needs to be restructured as it contradicts the spirit of protecting community rights. According to Boedi Harsono (2008), the relinquishment of land rights must be carried out voluntarily through a fair process so that the state does not appear to be using public authority to force communities to relinquish their property.

Based on this opinion, consignment should only be possible if all non-litigation dispute resolution mechanisms have been fully exhausted. Before submitting a consignment to the District Court, the agency requiring the land must demonstrate that it has held more than one consultation, independent mediation, provided an opportunity to file objections to the appraisal results, and attempted resolution through local government facilitation. Therefore, consignment is truly a last resort and not a routine procedure.

According to Urip Santoso (2017), protection of land rights does not end after the rights are relinquished, but rather remains in place until the community receives fair compensation and can utilize it effectively to improve their well-being. Therefore, ideal reconstruction needs to guarantee that the community continues to receive legal assistance, information regarding consignment disbursement procedures, the right to file a lawsuit against the amount of compensation, and the right to receive interest or additional compensation if there is a delay in resolving the dispute that is not caused by the community.

To date, the District Court has primarily served as a place to deposit consignment funds. This role needs to be expanded so that the court not only accepts funds but also oversees the fulfillment of all administrative and substantive requirements before the consignment is accepted. The theory of legal certainty is the most relevant theory for

analyzing the application of the consignment mechanism in land acquisition for the construction of the Pinggir Toll Gate in Balairaja Village, Pinggir District, Bengkalis Regency. This is because the core of the dispute that occurs is not only about the amount of compensation, but also about certainty regarding who is entitled to receive the compensation. Thus, the legal issues that arise not only concern the administrative aspects of land acquisition, but also concern the protection of land rights, certainty of ownership status, and certainty of the sustainability of development as part of the public interest.

In legal doctrine, legal certainty (*rechtssicherheit*) is one of the main objectives of law besides justice (*gerechtigkeits*) and benefit (*zweckmäßigkeit*). Gustav Radbruch (2013) explains that good law must be able to provide clear guidelines regarding the rights, obligations, and legal consequences of every action so that society can anticipate the legal consequences they will receive. If the law is unable to provide certainty, then the law will lose its function as an instrument regulating social life. The construction of the Balairaja Toll Gate is part of a national strategic project that requires accelerated land provision to ensure that infrastructure development does not experience delays. From the government's perspective, legal certainty is realized through the use of a consignment mechanism as regulated in Article 42 of Law Number 2 of 2012 in conjunction with Article 86 to Article 100 of Government Regulation Number 19 of 2021. These provisions authorize agencies requiring land to deposit compensation money with the District Court if payment cannot be made directly due to ownership disputes, rejection of compensation, the land object being used as collateral, being in court confiscation, or other circumstances as determined by statutory regulations.

Based on the case documents that are the object of the research, the government has conducted an inventory of the land affected by the Balairaja Toll Gate construction. Subsequently, an assessment was conducted by the Public Appraisal Services Office (KJPP), resulting in compensation for the land of approximately Rp21.17 billion, while payments for buildings and plants amounting to Rp15.338 billion have been made to the community. However, the government did not make direct payments for the land because there was a claim that the land was State Property (BMN) under the management of SKK Migas. Therefore, the compensation money was deposited through a consignment mechanism at the Bengkalis District Court.

According to Sudikno Mertokusumo (2009), legal certainty consists of two main elements: the existence of clear legal regulations and the consistent implementation of legal regulations by authorized officials. In the Balairaja Toll Gate case, both elements were formally fulfilled because the government acted based on Law Number 2 of 2012 and obtained a ruling from the District Court before carrying out the consignment. Therefore, from a government administration perspective, this action has fulfilled the principle of legality and provided certainty for the government in carrying out development.

However, the theory of legal certainty is not only aimed at the government, but must also guarantee certainty for the community as holders of land rights. In the case of the Balairaja Toll Gate, a different situation emerged. The community had long controlled the land based on various land administration documents such as Compensation Certificates (SKGR), Land Certificates (SKT), Land Replacement Certificates (SKGT), and some even had Ownership Certificates. However, the government argued that the land was a State-Owned Property (BMN), so compensation payments could not be made directly to the community. Differences in interpretation of the land's legal status left the community in a state of uncertainty regarding their right to receive compensation. According to Yance Arizona (2018), legal certainty in the land sector is not only related to certainty regarding

legal norms, but also certainty regarding state recognition of the legal relationship between the community and the land they control. If land control that has been going on for years does not obtain certainty of legal status, then the function of law as a means of protecting community rights will not be achieved.

This situation was evident in the Balairaja Toll Gate dispute. Dozens of residents then filed a lawsuit against SKK Migas, seeking recognition as the party entitled to receive compensation. However, the lawsuit was rejected by the Bengkalis District Court, then upheld by the Pekanbaru High Court, and on cassation, the Supreme Court also rejected the plaintiffs' request. This ruling did provide legal certainty from the state's perspective regarding the status of the land. However, from the community's perspective, another issue arose: they could not withdraw the consignment money they had deposited because they were legally declared not to be the party entitled to receive payment. Thus, the legal certainty obtained by the government has not been fully reflected in the legal certainty felt by the community.

This phenomenon demonstrates that the theory of legal certainty must be understood in a balanced manner. Legal certainty not only means certainty regarding development implementation, but also certainty regarding the protection of the rights of communities affected by development. According to Achmad Ali (2014), legal certainty should not be interpreted solely as certainty regarding the application of laws and regulations, but must also provide certainty regarding the protection of the rights of legal subjects. If one party obtains certainty while the other remains uncertain, then the objectives of the law have not been fully achieved.

According to research by M. Ilham Arisaputra (2015) in the *RechtsVinding Journal*, one of the main causes of land acquisition disputes in Indonesia is the suboptimal synchronization of land data between the central government, regional governments, the National Land Agency, and other sectoral agencies, resulting in frequent differences in land ownership status that are only discovered when the land acquisition process is underway. This finding is very relevant to the Balairaja Toll Gate case, where the dispute regarding the status of BMN only developed when the compensation payment process was about to be implemented.

Based on the theory of legal certainty, the consignment mechanism in the Balairaja Toll Gate case has succeeded in providing certainty for the continuation of the construction of national strategic projects because construction can continue without waiting for the resolution of land rights disputes. However, this mechanism has not fully provided certainty for the community because the resolution regarding who is entitled to receive consignment money was only achieved after going through a litigation process up to the Supreme Court. This condition indicates that legal certainty in land acquisition is still asymmetric, namely providing certainty for development interests more quickly than certainty for the protection of community rights. Therefore, to realize legal certainty that is just, future land acquisition mechanisms need to strengthen the process of verifying land rights status from the preparation stage, increase transparency in the identification of land acquisition objects, and optimize inter-agency coordination so that ownership disputes can be resolved before the consignment mechanism is implemented.

From the perspective of a state governed by the rule of law, courts not only perform administrative functions but also serve as guardians of citizens' constitutional rights. Therefore, before accepting a consignment application, the District Court should examine whether deliberations have been conducted in earnest, whether the appraisal report has been submitted to the public, whether there are indications of abuse of authority, and whether the

community's rights have been granted proportionally. With this mechanism, the courts are no longer merely a place to store money, but rather an instrument of oversight over the implementation of equitable land acquisition.

The reconstruction of the consignment mechanism must also be directed at strengthening the principles of the rule of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. A rule of law requires that every government action must be implemented based on the principles of legality, proportionality, accountability, and protection of human rights. According to Jimly Asshiddiqie (2021), national development in a rule of law state must not ignore the constitutional rights of citizens. The state does have the authority to take land for the public interest, but this authority must be limited by the principles of justice, proportionality, and respect for community property rights.

CONCLUSIONS

The application of the consignment mechanism in land acquisition for public interest in the construction of the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency, reviewed from the principle of legal certainty and protection of land rights. that Consignment is carried out as a legal remedy if the provision of compensation cannot be implemented directly due to rejection of the amount of compensation, land ownership disputes, land objects being used as collateral, being seized by court, or other circumstances as stipulated in laws and regulations.

From the perspective of the principle of legal certainty, this mechanism provides certainty for the government to continue the development of national strategic projects without having to wait for a prolonged dispute resolution. However, from the perspective of land rights protection, the implementation of consignment still leaves a number of problems, especially related to the less than optimal implementation of deliberations, the lack of transparency in the compensation assessment process by independent appraisers, limited community participation in determining the form and amount of compensation, and the tendency to use consignment as an instrument to accelerate development. As a result, although procedurally it has fulfilled the provisions of positive law, the implementation of consignment does not fully reflect the balance between legal certainty, justice, and protection of community rights as desired by the principle of the rule of law.

Reconstruction of the ideal consignment mechanism to be able to provide a balance between the interests of national development and the protection of the rights of the community affected by the Pinggir Toll Gate, Balairaja Village, Pinggir District, Bengkalis Regency. that in the establishment of a land acquisition system that is able to balance the interests of national development with the protection of the rights of the community as land rights holders. This reconstruction is carried out by strengthening the function of deliberation as a substantive resolution process, increasing transparency and accountability in compensation assessments by independent appraisers, granting the community the right to obtain a comparative assessment (second appraisal) under certain conditions, placing consignment as a last resort (*ultimum remedium*), strengthening the function of the District Court in overseeing the fulfillment of consignment requirements, and providing ongoing legal protection to the community after the deposit of compensation money is made.

This reconstruction also needs to be followed by improvements to the regulations in Law Number 2 of 2012 and its implementing regulations to further emphasize the balance between the principles of legal certainty, justice, benefit, proportionality, community participation, and respect for land rights. Thus, the consignment mechanism is not only an instrument to ensure the smooth running of development, but also a means of protecting the

constitutional rights of the community in accordance with the principles of a democratic state based on the rule of law.

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